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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,327	06/06/2001	William Christopher Duffy	2339-0111P	6116
2292	7590	01/13/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/874,327	Applicant(s) DUFFY, WILLIAM CHRISTOPHER	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,9,10,14,16 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 9, 10, 14, 16, and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 19-22 been renumbered as 22-25 respectively since claims 19-21 are still withdrawn and still in the application.

Claims 1, 2, 4-6, 9, 10, 14, 16, and 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 2, 7, and 15, and in claim 10 lines 2, 7, and 14, there is a lack of antecedent basis for "the outer surface". In claims 1 and 10, lines 1-2, it is not readily apparent to the Examiner if the applicant is claiming an access panel or an access panel in combination with a duct having an outer surface. Throughout the claims the applicant clearly and positively recites the duct, the opening, and the outer surface of the duct. If the applicant intends to claim the combination then the applicant should clearly and positively recite the duct having an opening and an outer surface in the preamble. Claim 9 is not readily understood by the Examiner. How can the cross-sectional shape of the duct have a plurality of side walls which define a cross-sectional shape (as recited in claim 1, lines 15-16) and be oval or circular? It appears that an oval or circular cross-sectional shape has a single surface or "side wall".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


As best understood, claims 1, 2, 4-6, 9, 10, 14, 16, and 22-25 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Dugger in view of French patent No. 2719347 to Leon. Dugger discloses an access assembly comprising a duct (22), a fire resistant seal (74) having holes, a rectangular ("irregular shape") fire resistant cover member (10) the shape of the duct (22) a plurality of fasteners (see figure 2) including wing nuts for mounting the cover (10) to the duct. Dugger fails to disclose threaded spring clips. Leon disclose threaded spring clips. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the panel assembly of Dugger with spring clips as taught by French patent to Leon since spring clips allow for adjustability between the cover and the mounting surface.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Beall discloses threaded spring clips similar to that of the applicant's invention.

Applicant's arguments with respect to claims 1, 2, 4-6, 9, 10, 14, 16, and 22-25 have been considered but are moot in view of the new ground(s) of rejection.

It appears that the applicant is trying to claim (in addition to what's already being recited) that the duct has an opening extending along at least two surfaces of the duct and that the removable cover and spring clips extend about the opening and the cover is shaped such that the removable cover completely covers the opening and fastened thereto via the spring clips. As currently claimed, the applicant merely recites a duct having a plurality of side walls and the cover spans one of the side walls. All covers perform this function.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



Jerry Redman
Primary Examiner